

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 559 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

NATWARLAL B PATEL

Appearance:

MR HARDIK RAVAL for Petitioner

None present for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/03/98

ORAL JUDGMENT

Perused the Special Civil Application, the award of the Labour Court at Ahmedabad dated 27th July 1984 passed in Ref.(LCA) No.869 of 1983 impugned in this Special Civil Application and heard the learned counsel for the petitioner.

2. The respondent, who is a Conductor in the

petitioner-Corporation, was dismissed from services on proof of the misconduct that he had charged money and not issued the tickets to the passengers. He raised an industrial dispute which has been referred to the Labour Court. Under the impugned award the penalty given to the respondent-workman by the Corporation of termination of his services was ordered to be substituted by penalty of withholding of backwages.

3. The learned counsel for the petitioner contended that when the misconduct of the grave nature has been proved, the Labour Court could not have interfered with the quantum of punishment given to the respondent-workman by the disciplinary authority.

4. I have given my thoughtful considerations to the submissions made by learned counsel for the petitioner.

5. The Labour Court has accepted that the respondent-workman has committed misconduct but penalty of termination which has been given to him by the disciplinary authority of the Corporation was considered to be extreme penalty and as such, the said penalty was ordered to be substituted by the penalty of withholding of backwages. So it is not a case where the respondent-workman has not been given penalty, but penalty of termination has been substituted by penalty of withholding backwages. Though the way in which the matter has been dealt with by the Labour Court may be erroneous, still the fact remains that in pursuance of the award passed by the Labour Court, the respondent-workman has been reinstated in services and he is in service for all these years. It is also not the case of the petitioner that thereafter the respondent-workman has committed any misconduct. I do not consider it to be a fit case where interference to the award of the Labour Court should be made by this Court. However, in appropriate cases, where the Labour Court has accepted that misconduct has been committed by the delinquent employee, this Court may examine whether such delinquent employee can be ordered to be reinstated by the Labour Court, by substituting the penalty of termination, with a penalty of withholding backwages and further whether it can be said to be substitution of penalty given for proved misconduct by disciplinary authority to the delinquent employee. Though this Court has repeatedly asked the learned counsel for the petitioner whether after reinstatement the respondent-workman has committed any further misconduct, he is unable to show anything on record and make out any statement on this question. So when the

respondent-workman is in service for all these years, now to interfere at this stage in the aforesaid facts and circumstances may act harsh to him and his family. However, it is made clear that this decision may not be taken to be a precedent in other cases.

6. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

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(sunil)